UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

Gregory J. Avedisian and
Linda J. Avedisian

VS. **C.A. NO. 16-cv-00654-S**

Select Portfolio Servicing, Inc. and
U.S. Bank, NA, successor trustee to
LaSalle Bank National Association, on
Behalf of the Holders of Bear Stearns
Asset Backed Securities I Trust 2005-HE10
Asset-Backed Certificates Series 2005-HE10

EMERGENCY MOTION FOR TEMPORARY INJUNCTION TO CANCEL/POSTPONE AUCTION

Now comes the Plaintiffs, Gregory J. Avedisian and Linda J. Avedisian and move this Honorable Court for a temporary injunction to cancel/postpone an auction scheduled for December 19, 2016. As grounds supporting therefore, Plaintiffs assert the following:

1. The Plaintiff(s) is the owner of the subject property located at 354 West Beach Road, Charlestown, RI.
2. On or about August 24, 2016, SPS and/or US Bank notified Avedisian that he was declined for a loan modification.
3. Within 30 days Avedisian filed an appeal of the denial noting that his income increased and that SPS and/or US Bank never conducted an interior inspection of the property for purposes of determining the property value.
4. SPS and/or US Bank did not revise or make any counteroffer concerning the modification.
5. SPS/ US Bank began to advertise the foreclosure sale while Avedisian still hadn’t exhausted his administrative remedies in violation of Regulation X.

6. In response to a Consumer Financial Protection Bureau Complaint, SPS on November 4, 2016, SPS offered Avedisian the option of short sale or voluntary surrender of the property.

7. The auction scheduled for November 21, 2016 was postponed.

8. Within 30 days of SPS's response to Avedisian's CFPB Complaint, Avedisian listed the property for sale and entered into a Purchase and Sales Agreement for said sale.

STANDARD OF REVIEW

9. The Plaintiff has a likelihood of success on the merits of his claim because SPS and/or US Bank failed to send Avedisian an updated default letter, the terms of the mortgage were not complied with, SPS and/or US Bank failed to provide Avedisian an adequate amount of time to pursue the short sale alternative, and the foreclosure sale is illegal.

10. SPS and/or US Bank failed to provide Avedisian an opportunity to list the property for short sale after all of Avedisian's administrative remedies regarding the loan modification were exhausted.

11. The Defendants will not be harmed since it has security in the property.

12. Avedisian will be irreparably harmed by the foreclosure sale as he will not be able to short sale the property, suffer negative impact to his credit, and have his military clearances threatened. Furthermore, real estate, by its very nature is unique in its nature and character.

13. Stopping the foreclosure will retain the status quo pending fact finding and hearing on the merits and provide Avedisian an adequate time to short sale the property.

14. The Plaintiff has clean hands as he has exhausted all of his administrative remedies and seeks an alternative loss mitigation option.

15. The public interest is served in allowing a property owner reasonable notice of default and reasonable amount of time to short sale a property prior to foreclosure sale.

WHEREFORE, Plaintiff prays that a preliminary injunction issue restraining Defendant from foreclosing on the property on December 19, 2016.

Plaintiff
By their Attorneys,

/s/ Corey J. Allard, Esq.

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CERTIFICATION

I the undersigned hereby certified that the within was filed using the CM/ECF system on December 16, 2016.

/s/Corey J. Allard, Esq.